

## PERSPECTIVE

### LAW AND THE ENVIRONMENT: REFLECTIONS ON WOBURN

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#### *I. Introduction*

On November 11, 1999, the SETON HALL LEGISLATIVE BUREAU hosted a lecture featuring the remarks of environmental attorney, Jan Schlichtmann. The event was well-received by the student body and was made possible in part by the continuing support of Professor Paula Franzese, the SETON HALL ENVIRONMENTAL LAW FORUM, and the SETON HALL JEWISH LAW SOCIETY. What appears on the following pages is a reproduction of the lecture supplemented with citations by the SETON HALL LEGISLATIVE BUREAU. Please note that the utilization of quotation marks is often intended solely for the purposes of literary effect and only indicates the presence of a direct quote when accompanied by citation.

## **II. *Speakers' Biographies***

### ***Paula A. Franzese, Esq.***

*Professor of Law, Seton Hall University School of Law*

Professor Franzese was a litigator with Cahill, Gordon, & Reindel in New York City, where she also served as a member of the Housing Court Reform Project and the Governor's Task Force on Life and Law. She clerked for Justice Alan B. Handler of the New Jersey Supreme Court, and has published in the areas of property law, contracts, land use and zoning, commercial law and bankruptcy and legal ethics. In 1986, she came to Seton Hall University School of Law. She is a four-time recipient of the Student Bar Association Professor of the Year award

Professor Franzese serves on the American Bar Association Uniform Commercial Code Study Revision Group, the American Arbitration Association, The National Affordable Housing Colloquium, the Federal Bar Council and the Columbia Law School Alumni Board of Directors, and has served as Chair of the Barnard College Alumnae Council

Professor Franzese received her B.A., summa cum laude, Phi Beta Kappa, from Barnard College, where she received the Bryson Prize and Foreman Fellowship, and her J.D. from Columbia University School of Law, where she was an International Fellow and recipient of the prestigious Rosenman Prize.

### ***Jan R. Schlichtmann, Esq.***

*Lecturer and Environmental Attorney\**

Jan Schlichtmann, specializes in the area of complex civil litigation, including products liability and toxic tort litigation. In 1986, Mr. Schlichtmann received national recognition for his representation of eight Woburn, Massachusetts families against W.R. Grace and Beatrice Foods for the contamination of the Woburn City water supply. The groundbreaking nature of the Woburn case has been the subject of a number of national radio and

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\* Passages from Jan Schlichtmann's biography were provided courtesy of the American Program Bureau.

television shows and reports, magazine and newspaper stories and features, and scientific and legal journal articles. Mr. Schlichtmann's career and involvement in the Woburn case is chronicled in the national bestseller and feature film, *A Civil Action*. In addition, he has lectured at a number of law schools and spoken before various professional and civic groups.

Mr. Schlichtmann has served on the faculty of the New England School of Law, Suffolk Law School's continuing legal education program, and the National Judicial College in Reno, Nevada. Mr. Schlichtmann graduated *Phi Beta Kappa* from the University of Massachusetts at Amherst and received his J.D. from Cornell School of Law. Mr. Schlichtmann is also listed in *The Best Lawyers in America*.

### **III. Remarks of Professor Paula Franzese**

Good evening. My name is Paula Franzese and I am a Professor of Law at Seton Hall Law School. It is a great honor and privilege for me to introduce my friend and colleague, Jan Schlichtmann. Jan is perhaps best known for *A Civil Action*,<sup>1</sup> the book by Jonathan Harr, and the Disney Touchstone feature film starring John Travolta.<sup>2</sup> Do take an opportunity to see it. Not many people bear the distinction of being portrayed in the cinema by John Travolta.

Jan is an internationally acclaimed environmental lawyer. *A Civil Action*, as depicted in the book and in the movie, arose out of a lawsuit that was initially filed in 1986 on behalf of several families in Woburn, Massachusetts who were part of a cancer cluster as a result of the contamination of their area's water supply. Jan, in the years since *A Civil Action*, continues to inspire and astound me. He let so much of that litigation, fraught with disappointment, inform his life rather than destroy it. He is a testament, I think, to the power of transcendence, to the power of the epiphany. His life, and all that he is doing right now on behalf of the families of Toms River, New Jersey, together with what he does as a part of his practice, is rooted

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<sup>1</sup> JONATHAN HARR, *A CIVIL ACTION* (1995).

<sup>2</sup> *A CIVIL ACTION* (Disney-Touchstone 1998).

in a recognition that when all is said and done, there really are no winners in litigation; only survivors. Jan is a living testament to the premise that wisdom and compassion are indivisible. Mahatma Gandhi said that to see the change we must be the change. Jan comes to us today as both the message and the messenger of this essential truth. Gentleness is to be expected only from the strong.

Jan is working on behalf of legal reform, principally in the arena of alternative dispute resolution. He is endeavoring to achieve the highest aspirations of civility. He is embracing a kinder way, more integrated, holistic, and humane, so that when all is said and done, virtually every action will indeed be "a civil action." It is a great pleasure to present to you Mr. Jan Schlichtmann.

#### ***IV. Remarks of Jan Schlichtmann***

Thank you for inviting me to come here today. It is a tremendous honor to have a book and a movie done about an important part of your life. It is wonderful, but it comes with a price. There are people out there that have never met me, and they talk about me. They use adjectives. I know. I have been collecting them. They often use "charismatic, arrogant and insensitive." One called me a "heartless huckster" and another one said that I was a "humorless vulpine who went through an experience at the end of which I became almost human." I had to look "vulpine" up. I know you are all educated folks so you know that vulpine means having the quality of an endangered predator. It appears I am on someone's list.

Anyway, when John Travolta was finished playing this two-timing, two-faced politician, a fictional character, of course, they said "have we got a part for you; this Schlichtmann guy." Travolta does a little research and says "I don't know if I can play this guy. He is kind of greedy and materialistic." They said "how about twenty million dollars?" He said "o.k. I'll try." All I know is that he made a hell of a lot more money playing me than I ever made playing me. One of the ironies of life.

I have come to realize that my experience in Woburn was a wonderful gift. I learned a few things. It took a long time to appreciate that. People come to me and they ask questions. They

are concerned, as we all are. Some come concerned about the risk that the environment poses to us. Others are concerned about the risk that we pose to the environment. But all of them want to know if perhaps I could dig around in that experience of mine and offer a solution to these problems that seem to be threatening our existence. They ask, "is there a law that you could suggest or is there an administrative policy that you can change? Surely, you could recommend a lawsuit that we could file that could help solve this problem?"

I have to tell you, if I was a little younger, I think I would have rattled off the law, the change in administrative policy, or the lawsuit that would help solve the problem. But now I am not so quick to do that. You see, I went through an experience and I have had a chance to think about things. I think back thirty years to how some folks were concerned; so they did something very unusual. They spent the whole day in a place like this law school. They spent a whole day doing something together that folks had not done. They shared their thoughts, anxieties, fear, dreams, and ideas. Then they left that place and went to other places where they got folks excited. After a time, some interesting things happened. Some laws were passed.

The Clean Air Act<sup>3</sup> and The Clean Water Act<sup>4</sup> are laws with good names that did good things. They also were able to get an administration that they thought would never change to change its policy. The National Environmental Policy Act was passed,<sup>5</sup> and the Environmental Protection Agency (EPA) came into existence. There were lawsuits that were filed and they did some good. But then, the law of human physics kicked in. Those who did not like the laws filed lawsuits to stop the laws. Those who did not like the lawsuits changed the laws. Those who did not like the change in administrative policy changed the administration.

So here we are. As we come to the dark end of the twentieth century, waiting for the dawn of the twenty-first, we can be certain of only two things. We can be certain that we are going to spend a lot of time, money, and human resources in the new century dealing

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<sup>3</sup> Clean Air Act, 42 U.S.C. §§ 7401-7671 (West 2000).

<sup>4</sup> Federal Water Pollution Control Act, 33 U.S.C. §§ 12521-1387 (West 2000).

<sup>5</sup> National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321 *et seq.* (West 2000).

with the toxic legacy of the old. We can also be sure that we know we have to get to a safer, healthier, and better place. But we are unsure how to get there. Where do we start? And with whom? And our jobs as lawyers is to help folks figure this out. That's our challenge. How are we going to get folks to a safer, healthier and better place? We must consider this question as lawyers, because people will be coming to us to find the answer.

When I was a younger, I thought I had the answer. I was a personal injury lawyer and I enjoyed representing people who were abused by power. I liked the work. I know it warms the cockles of your heart to hear that. We all know how well regarded personal injury lawyers are in our society. I am sure that some of you are aspiring to be one. Well, I enjoyed it. I liked representing people who were abused by power. What do you do as a lawyer representing those who were abused by power? The answer for me was easy. You grab the power that the law gives you, and you destroy the power that abuses. The answer was easy until I experienced the laws of human physics. They did not teach any of those laws in law school. Does power destroy power? It is a physical impossibility. "No problem," I told myself, "I will gather together the power the law grants me and I will punish the power that abused my client." You know what I learned? Punished power always seeks its revenge. If I cannot destroy it, punish it, or abuse it, what can I do? What use am I? No use I thought. I figured that there was nothing for me to do.

For a long time, I thought that was the case. Nothing to do; could not figure it out. Then after a long time, it came to me. There was only one thing to do and that was to civilize power. Civilize power? Yes; civilize power. It is the only thing we can do but how do we do that? Where do we start and with whom? I would like to start with me.

I would like to tell you a little story about how I came to this thought. For a long time I did not want to be an attorney, but then I decided I would start to recycle myself back into the practice of law. Then the day came, as it always does in every lawyer's life. The day came that I got angry. My anger churned up all that dark stuff from the bottom and the water of my soul became dark. I came home with a need to get my mind off of it, so I made a choice. It was a bad one. I decided to read the newspaper. I read the newspaper about how we appear to be at war with each other and with the

earth so I went to bed and tried to sleep. All night I tossed and turned over my problems and the world's problems. I could not sleep. Finally, I got up. It was that time in the morning were it is so dark you think that there will never be light. I got up and was parched. I felt like I was suffocating. I felt claustrophobic. So I did what any self-respecting human being would do in such circumstance, I went to get some water. The water tasted good, you know, like water can or should. I opened the window. The air felt fresh, the way air should. However, I still felt like the walls were closing in on me. I needed to feel the earth underneath my feet, so I left that place. I started to walk but I could find no peace; and my need, it kept driving me on and on until, finally, I came to the edge of a cliff. I could tell I was there, because I could hear the roar of an angry ocean crashing on the rocks below. Now my need became equaled by fear so I started to feel my way along the cliff. Then I felt it, the gnarled bark of a familiar presence. In its presence, I decided to sit and think about things.

I remember sitting on the cliff. I looked out. It was very dark. I could see the dark form of the land and the dark form of the sea, and it looked like it must have at the beginning of time. I thought about that moment that must have come like a thought can come. The moment when before there was nothing and then there was something. This something came and filled the sea and the land with the color of life. This life, it fed off of the dangerous ether and it breathed out oxygen to a whole new kind of life. Then there came a moment when there was a freezing, like a mind can become frozen. The freezing drained the seas and scoured the land of life, but the freezing was always followed by a warming. In that warming, life reestablished itself. This did not happen once but several times. The last time it happened, in our part of the world, the freezing came and scoured our place down to its bed rock soul. Then the ice retreated and life reestablished itself. The trees came and grew in all directions, as far as trees can grow.

Then folks came. The first folks who tread so softly on the land and left no mark of their presence. Others came to stay, to grow things, to make things, and to use things. In order to make room for all this, they had to cut down the trees.

As I sat on the cliff, I thought about a man who once lived not so far from where I live. He became concerned. He had an uncomfortable feeling about what was happening to this world. His

need drove him north. He went as far north as you can go in this country and still be in this country. He came to a place dominated by a great mountain. He climbed the mountain and from its summit he looked out and saw a vast green expanse where trees had been cut. In this vast green expanse, he said the rivers and the lakes, shone like shattered pieces of mirror. Then he went down into the valley where life, he said, looked down on him. He said that the pond was like the earth's eyes. In that place he discovered something; something important, something vital. He had thought that a place like this has to be preserved for our own sake and he had a thought. His name was Henry David Thoreau and he shared his thoughts with us in his lectures and in his writings. He said, "in wildness is the salvation of the world."<sup>6</sup> He said to his fellows, "we've got to preserve this place, we've got to think about nature because nature has something to teach us."

Most folks did not listen. They thought he was crazy. He did not mind being compared to that bird. It made a wonderful sound, a different sound, and he moved to it. And there were a few folks who did heed the call. They did preserve this place.

Now I know this, because when I was stumbling around in my own wilderness, I came to this wilderness and met a man who had spent a lot of time thinking about nature and learning from it. He could see that I was lost, confused, and a little afraid. He said that he was willing to share some things that he had learned. He said, "the secret to life in the forest is death in the forest." Now he could see I did not understand so he took me to a place where a great tree had fallen to one side. He said, "come look. . . you see at the base of this tree, bears have been pawing at it to get at the ant eggs that they love and here along the trunk, you see birds have been pecking at it to get at the insects that they love. This tree is giving life, even though dying. When this tree falls, as all trees do, all the life that is inside is going to burst forth and it is going to make the soil for the generation of a whole new kind of tree."<sup>7</sup>

As I sat on the cliff, I thought about this man who was born at the beginning of this century. He was born in America's heartland.

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<sup>6</sup> Aldo Leopold, *Thinking Like a Mountain*, in *A SAND COUNTY ALMANAC AND SKETCHES HERE AND THERE* 129, 133 (1949) (quoting Henry David Thoreau (citations omitted)) [hereinafter *Thinking Like a Mountain*].

<sup>7</sup> See Aldo Leopold, *A Mighty Fortress*, in *A SAND COUNTY ALMANAC AND SKETCHES HERE AND THERE* 73, 73-77 (1949) [hereinafter *A Mighty Fortress*].



He thought a lot about nature. He loved nature. This man once stated that as a youth he loved nature and all he could take from it. He told a story about how when he was young, he was on the mountain's rim rock, and from the mountain's rim rock he looked down and he saw a wolf. He shot it. Later, he held his prey and watched as "a fierce green fire [died] in her eyes."<sup>8</sup> He became troubled by a thought. Perhaps the mountain and the wolf knew something he did not.<sup>9</sup> This thought so troubled him that later in his maturity, he shared his thought with us. His name was Aldo Leopold, and he shared his thoughts in his book *A Sand County Almanac*.<sup>10</sup> In this book he said something really bizarre. He said, "it is not enough to think about nature, we've got to think like nature. We've got to think like the mountain, like the sea, like a river, like a tree."<sup>11</sup> What a thought. How bizarre. Think like nature?

I sat on the cliff and thought "thinking like nature?" What good can come from that? In the predawn light I could see the outlines of the trees. I could see the tree was anchored in the bedrock, as trees are, and could see how its roots went out into the soil. I remember those roots because not too long before they had gone and busted up my septic system like they were trying to show me something. This sent me on a journey and led me to meet a woman. She took me to a place not too far from where I live. There in the center of this little town was a greenhouse. I thought it was a floral shop or something. "No, no, no," she said. She showed me how all the waste from town came to the greenhouse to wash through the roots of the life growing in the vats. As the waste went from one vat to the next it became cleaner and cleaner. Finally, it went into a human-made marsh and came out clean drinking water. A greenhouse growing clean water. What a thought.

I remember sitting there and thinking, "what harm could come if we don't think like nature?" Then I thought about a woman who spent a great deal of her life thinking about nature. She thought about all the places that nature takes root: the earth, the air and the

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<sup>8</sup> *Thinking Like a Mountain, supra* note 6, at 130.

<sup>9</sup> *See Thinking Like a Mountain, supra* note 6, at 130.

<sup>10</sup> ALDO LEOPOLD, *A SAND COUNTY ALMANAC AND SKETCHES HERE AND THERE* (1949).

<sup>11</sup> *See Thinking Like a Mountain, supra* note 6, at 132.

water. When she looked there she found things that didn't belong there. These were byproducts from the growing of things, the making of things, the using of things, and the testing of things. The woman's name was Rachel Carson and she shared her thoughts with us in her book *Silent Spring*.<sup>12</sup> She warned of a sinister partnership taking place between chemicals and radiation.<sup>13</sup> If we did not take heed, this partnership could cut away at the very fabric of life and this tattered fabric could become like a shroud on our future.

I remember sitting there thinking that it was just two years after Rachel Carson published her book, that the town of Woburn, a small working class community north of Boston, opened two new wells to welcome new industry and new neighbors. Two of those neighbors were Ann Anderson and her husband Charles. After moving to Woburn, they were blessed with children. Then on a dark winter's day in 1972, Ann learned to her horror that her son Jimmy, the youngest, had a disease she had never heard of before, called leukemia. The diagnosis was made soon after the EPA was formed. This horrible diagnosis gave way to the numbing reality of taking Jimmy to Mass General Hospital where he received chemotherapy. It was there in the waiting room that Ann became haunted by something. She saw another mother, and another mother, and another still. They were there because their children were being treated for leukemia. These were mothers from the church, from the supermarket, and down the street. It didn't seem right. So Ann mustered up the courage to walk across the waiting room floor to introduce herself to the other mothers. They shared their experiences in that place.

Ann was filled with questions. She asked the doctor what caused the leukemia. Scientists do not know. Some think a virus. Ann thought, gee, a virus? Maybe there is a virus going through the community. Then she thought about the water. It tastes bad and smells bad. People have been complaining about the water for years. Maybe there is a virus in the water making the children sick. She discussed it with her husband. "Oh my goodness," he said, "why if that were the case, why the authorities would have told us." Oh, yeah, sure, of course. She made a phone call. "Oh, no, the

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<sup>12</sup> See generally RACHEL CARSON, *SILENT SPRING* (1962).

<sup>13</sup> See *id.* at 168.

water's safe," they told her, "it passes all of the state tests." And it was like that for a very long time until the end of that decade when the EPA did something. It had the thought that maybe it should send a little money and some equipment to places around the country to help determine if there are things in the water that Rachel Carson said should not be there.

The first vial of water that the EPA had tested was a vial from the city of Woburn. A few days after, Ann awoke with her neighbors to find that the water that she had been told was safe, was not safe, but contaminated with foreign chemicals she had never heard of before. The mothers became determined. They made a resolution. They came together and decided to get answers to their questions. They went to the EPA and asked, "would you please come up to Massachusetts, do a study, and find out who did this and when?" The EPA agreed to come up there. It was the first time that they had ever conducted such an investigation.

Ann and the others did something else. They went knocking on the doors of their neighbors. "Do you have a child?" they asked, "does your child have cancer?" If the answer was yes, they put it down on a list. There were twenty-four cases of children with this disease in twelve years in this small community. So they went to the Center for Disease Control (CDC) and they said "we've counted the numbers of children with this disease. There are too many. Is the water responsible?"

The CDC decided to go up to Woburn to do some work, and the EPA did its work. After a lot of time and money was spent, they invited the community together at a place like this and they announced their results. The EPA said, "we've done tests, the water is contaminated, but we don't know who and we don't know when." The CDC said, "we've counted the number of children with this disease. There are too many, but we can't tell you if the water is responsible." Now for Ann and the others, this just was not satisfying so they came together and made another resolution. It was a very strange one, a very unusual one. I know you are going to find it so, you all being law students. They decided to get a lawyer. So, they called me in order to get the answers to their questions.

I remember sitting in the office and saying, "get answers to questions? No, no, you don't seem to understand. When a client comes in with a problem, I see if I can make a case out of it and if I can make a case out of it, I can help. But if I can't, I can't." Now in

order for me to make a case, there has got to be wrongdoer. Who did this? The authorities do not know. I thought about how much time and money I would have to spend to find out who was responsible. After I found out the "who," would they have the "what" to make it all worthwhile?

I told them the law requires something else. Between a wrong and a wrongdoer, the law requires a connection; a thing called "causation." "Did your doctors tell you the water was responsible?" "Oh, no, the doctors don't know." I thought to myself, "is there a scientist or doctor in this country or world that I can get to testify and, after I sobered him up, what kind of witness would he make?" I knew I did not have the experience, or the resources to do such a thing. Nobody had ever done it. I told them so, but they would not take no for an answer. Well, I said that I would go knock on the doors of those who had more experience, wisdom, and resources to see if they would help. And I found out why they had more experience, wisdom, and resources. "Thank you very much," they said, "but good luck and God bless." They were busy.

So I brought the families together in a place like this, you see, and I told them I could not help them. Do you know what the mothers did? They held up their children and said "don't you understand? Our children are choking to death on the lies. We need the truth." I remember standing there and I told them "yes, this thing you say you need I have to go and get. This thing you say you need, well I would have to do what nobody has ever done before. I'd have to go and invade the land of the "thing-makers." They don't take kindly to invasion. What if I did this case no one had ever done before? There would be a lot of danger. Well, let me think about it.

I began to think about it, and I began to do a little research. I began to look at the signs and they were all pointed to two of the largest thing-makers in the world, W. R. Grace and Beatrice Foods. Between the two of them, they made everything. I knew that if I did this case that nobody had ever done before, there would be more danger than I had experienced in my life. There would be more challenge than I had experienced in my life, and then I heard the rumors. You know the rumors. Sure. There are things buried on their property; valuable things. Yes, and if you were quick enough, if you were clever enough, if you were smart enough, why you just might unbury them and people would pay huge sums to possess

them. I sat there thinking. I thought about the children, the need, the challenge, and the treasure. I thought about it all and then I said, "this is what I want to do." I went to my two partners and they said "o.k., all for one and one for all." We were in, we were on, and we joined the families on their journey.

What a journey it was. This was a journey into science and medicine and a journey into the law and the legal system. And I was to find out, like all great journeys, it had to be traveled on a personal level and, as I was to find out, a spiritual one as well. This was a journey where we learned many things we did not know. We had to go to folks who had different experience and knowledge than we did. We went from one to another and another. It became very confusing so we decided that the only way we were going to understand it is by bringing them all together in a place like this. At a place like the law school, we brought in scientists, doctors and engineers. It was the first time it had ever been done. No government entity, corporation, or institution of higher learning had ever brought together all these different folks at one time and place to think and talk about whether these chemicals in water could make children sick, give them leukemia, and make them die.

At this place and time there was a geologist and a hydrogeologist, a toxicologist and an epidemiologist, a cardiologist, neurologist, and immunologist, and a psychiatrist, mostly for my two partners and I. All these "ologists," were all talking to each other, and as they talked, we noticed patterns and connections. We learned a lot, especially about "thing-making." When you make things you make waste. We learned about the chemical constituents of that waste. We learned what they did with the waste at the end of the day, where it went, and what happened to folks when it got there. We found out that the amount of chemicals in the water such that the body must rid itself of them. In the act of getting rid of these chemicals, breaks in the DNA can form which can become places where tumors can take route causing children to get sick. But there is no "real" exposure, the folks did not drink the water. It tasted bad. People avoided drinking it. We found out it was not drinking the water that was the problem. These chemicals volatilize into the air through the shower and the dishwasher, enriching the household air so that just being in the home caused the greatest exposure.

Now it was exhilarating and exciting to discover all of these connections. We learned the truth about these chemicals and the

conduit that kills. Ultimately what we learned was the importance of truth itself for life itself, the connection between truth and life. But I have to tell you, it took a very long time before I saw that connection, because I had to do some things in the meantime. I got excited because I saw what I could do with all this learning. I saw that I could make a case and I did. I filed a case nobody had ever filed before and with the power that the law gives, I got to go on the defendants' property. Nobody had ever gone on there before.

On their property I saw things that people had not seen before. There were pits everywhere. I learned a lot about pits. Pits are dirty and dangerous. People dig them to bury things. I learned a few other things about pits. When you jump into somebody else's pit and you start digging, sometimes you start digging your own. Something else about pits and burying things; dig as deep as you will. Buried things have a strange way of resurfacing. I learned something else about invasion. When you invade another's land and dig in their pits, they usually return the favor, invade your land, and go into your pits looking for things and find them. With all that invasion there was conflict, and with all that conflict there was war. War is the only way to express it, and this war was like every other war. This war went on like all wars do: too long. And this war ended like all wars do: in exhaustion. The only way wars can end. This war had something else, war stories. Like any veteran in any war, I have a few.

I remember there came a time when our head "ologist," I think that is the best way to describe him, was summoned by the lawyer for Beatrice Foods. This lawyer was the best. The head "ologist" was summoned into the lawyer's office for a deposition. You all know about depositions. Depositions are where you swear to tell the truth under the penalty of perjury. He was there and the lawyer for Beatrice asked all his questions about why the doctor believed that the water hurt the kids. Near the end he said, "you know doc, I've just got one more question, just one more. Name the study, name the study that shows that children exposed to these chemicals in the water supply makes them sick and gives them leukemia. Name one. And I remind you, you're under oath." The doctor did not need reminding. He said there were none. But the doctor answered, "ask me that question in a few years; this will be the study." I remember sitting there wondering if the study would be complete before the trial or after.

Now it was my turn to ask the questions, and I summoned Grace's employee, Al Love, to my office. He came there and he had to answer the questions under the pains and penalties of perjury. I asked, "what chemicals did you use and what did you do with them at the end of the day?" He was not talking. All those questions, all those pains and penalties. He was not talking. My partner said "Jan, you're not getting anywhere." "Yeah, I know Kevin." Kevin said, "you know what, Al Love lives across the street from Ann Anderson, why don't you ask him how he feels about the water and if there are any health problems in his family." "Oh, Kevin that is ridiculous." So I did it. Now when I asked the questions, the other two lawyers for the companies, they stared to laugh. But Al, he was not laughing. He said that he got a headache that did not stop for a week. Ann had brought him to me and I brought him to the U.S. Attorney. And when the U.S. Attorney brought Al to the Grand Jury, the Grand Jury brought out an indictment. It was the first time that a Fortune 500 company had ever been indicted for not speaking truthfully to the EPA.

There is also the story of Tom Merlin, the city engineer. His job was to turn the wells on and turn the wells off. He lived across the street from the Toomeys. The Toomeys lost their son Patrick to leukemia. And Richard, the father, he came across the street to Tom and said, "Tom, come here and look at the water." "Oh, there's nothing wrong with that water, Richard, it's the pipes." Oh, yeah sure. And then it came to trial. The companies summoned Tom Mernin to come to court and testify under oath as to when he turned the wells on and off, and he did so, but not always truthfully. Then he left that place and was diagnosed with leukemia two months later. A little while after, he told the families' reverend, he said, "it touched me too."

We never had an Al Love for Beatrice's Tannery. The verdict went against us on appeal, but something interesting happened. Beatrice's Tannery broke the contract. It closed the plant down and sent all the employees home. That very afternoon, I was in the kitchen of a Tannery employee, who months before in my office was not talking, but now in his kitchen he was talking, because he was dying of leukemia. He shared with me what he knew and this led me to someone else who shared with me what they knew. I got angry, and the more I learned, the angrier I got.

I began to figure out what they had done. I took this information and finally I cornered Beatrice's lawyer. Finally, I had him just where he wanted me. I said, "hey." He looked at me with those eyes and said, "what do you want?" "The truth." "The truth," he said, "oh, it's over there." I said, "where?" "The truth, we put it over there in the pit." "Which one?" "Oh, we buried it at the bottom of that bottomless one." I pushed my partners aside. I pushed everybody aside. I jumped into that pit and started to dig. A blizzard of digging. I was determined to get to the bottom and I dug until I couldn't dig anymore. I did not get to the bottom, but in my exhaustion I saw in the diggings things that shimmered. I saw things that shone like little pieces of gold. This was evidence that had been withheld, this was evidence of evidence that had been destroyed, and this was evidence of false testimony, perjury.

I grabbed all these things, stuck them in my pocket, and went to another place. I laid the shimmering objects out on a table in front of a federal judge. I shared with him what I knew. This was a federal judge and, as you know, federal judges can get quite angry. This federal judge got as angry as a judge can get. I remember standing there with a smirk on my face waiting for the infliction of the pains and penalties. They came, but not against them. They came against me for digging it all up. I remember his words. He said, "it is too late for the truth" and he closed the hearing down. I ran from that place with his words ringing in my ears. "It's too late for the truth."

I went to another place to make an appeal. Now for all of you who are studying this process, let me explain. An appeal is when you are trying to reach the folks inside, but you are not allowed to. The door is locked. You have got to stand outside and you have got to make an appeal. It goes something like this: "Right this wrong." And they did. You had to wait for a long time as you always do. But then finally, through a slot in the door, the opinion came out and it was all written down. I read it. "Wait a minute, you wrote this wrong." Then another piece of paper came out. "If you've got a complaint, you can go to another place." I followed the directions, I went to another place, and I came to the biggest door a lawyer can knock on. I wanted to talk to the folks inside but I was not allowed. The door was locked, as it always is, and I was forced in that place to make a petition. For those of you who are studying procedure, it goes something like this: "Help!!" I stood there



screaming for a very long time. I became hoarse, and finally I stopped. After a very long time, a little man came to the door, said "I'm sorry, they're busy," and closed the door. You see it was over, just like that.

Finally, I had to look around. Like I said, this was a war. Like there are in all wars, there were casualties in the war. I lost my two partners, good men. I lost some other things. I went to get the car. No car. I went to my condo. No condo. I went to put on clothes. No clothes. I went for the credit. No credit, no colleagues and no career. Nothing! All around me was nothingness. It was horrible. I stood there thinking "how did I ever get to this place?" It was overwhelming. So I did what any self-respecting human being would do in such a circumstances; I got the hell out of town. I went as far as you can go in this country and still be in this country, Hawaii. Not a bad place to go if you are having a mid-life crisis. If any of you are thinking of having one, I urge you to go there. It is a beautiful place, a spiritual place. I went there. When I got there, I made a resolution. No law and no past, I would start a new life. But it did not happen.

Something else happened. You see, the EPA looked at all the information we shared about Beatrice and Grace and they said "you know, the families are right." "The companies *were* responsible." The EPA did something unusual. They invited the companies to a place like the law school and they shared with Beatrice and with Grace what we knew. After all that sharing, something interesting happened. The companies wrote a check for seventy million dollars for a clean-up. It will take fifty years.

I was lost, confused, and a little afraid so I did what any self-respecting human being would do in such circumstances; I went home. I decided to make the long hike home from the lava rock of Hawaii to the bedrock of New England. It is not an easy hike. As many of you know there is twenty-five hundred miles of open ocean. But I made it. I made the hike. Finally, I came back to the place of my beginnings. It was the place that I talked about earlier, a granite headland cliff overlooking the ocean. There I was forced to think about the past. The pain was overwhelming. All I could think about was what I had lost and what I had gained. Thus distracted, I began to stumble. I tumbled toward all the outstretched fingers of a branch and held on for dear life. But I could not see any way up or any way out. I knew, in my exhausted state, it was only a matter of

time before I must let go. So I closed my eyes to accept my fate. It was in that long endless moment swinging between life and death that it came to me. I was holding something in my hand, something important, something vital, and this thought made me want to live. I looked up, and I could see that one branch led to another, so I grabbed at the branch, found by my way to a limb, and climbed down a trunk to solid ground.

I was so relieved I just decided to stay at this place and think about things. I stayed so long thinking about things that my life began to take root right here in this place. I decided to make it my home. I got married and had two sons; two more reasons to want to stay safely rooted in this place. Then some other things happened. The book came out. And then phone calls came. "Hey, I just read this book about how you are this lawyer who gave up everything for his clients. Including his sanity. You sound like just the lawyer for me." "What? I'm married and I have two boys. I'm a little tired."

But then there was a call from a mother in Toms River, New Jersey. She said, "you know, we've got contaminated wells down like here just like Woburn, a lot of children with cancer, and two companies." Its always two large companies, and there are lots of questions with only few answers. "We were wondering, maybe you learned something. Would you mind coming and sharing with us what you learned?" Well, I could not say no, so we came together and shared our experiences. After all that sharing something interesting happened. All the families came together to form an organization called T.E.A.C.H.: Toxic Environments Affect Children's Health. Then we made an unusual arrangement. We decided between lawyers and clients we would be partners. Yeah, partners.

For those of you who do not know what partners are, partners look out for each other, respect each other's limited resources, and they look at problem solving as something that they all do together. As partners, we went to the local government and formed an official partnership. We also went to both the state and federal governments to form a partnership. Finally, we went knocking on the doors of the companies and who should answer the door, but the lawyers who used to represent Beatrice Foods. Well it was not like we didn't have something to talk about. We shared with each other what we knew and after all that sharing, something interesting happened. We announced a partnership, a fourteen month period in which

there would be no legal action, all rights would be preserved, and we would use the time to come to share what we knew. We hoped that by sharing information we might figure out the past and what, if anything, should be done about it.

Something else interesting happened. On a summer night in 1996, the Agency for Toxic Substances and Disease Registry, an agency created to help communities determine if there is a connection between the environment and health, brought the community of Woburn together and proclaimed that the families were right all along. The water was responsible. The data shows that children who were exposed to these chemicals in utero had a fourteen times greater risk of contracting disease than those who were not. The data was so compelling that these agencies and officials who had never before found such a connection announced that such a connection existed.

I remember that night. I remember going home that night in the company of the families. There were not as many as when the journey had first started. I remember thinking about all that had gone on before and there was no pain, there was only joy. Yes, it had been eighteen years since the wells closed and yes it had been fifteen years since Jimmy Anderson died but no, it was not too late for the truth. You see, I realized right then and right there that I did not have to go and take the truth from someone. The truth, I don't have to go and destroy things in order to get it. No the truth is, that it's not out there for the taking. The truth is all around us, and it comes to us when we share experiences. When we share experiences, soil is created in which life takes root.

By now, the sun was in the sky, and it was time to get on with the business of life. As I turned from that place, I had a thought. I would like to share it with you. I would like to share a branch, a branch that saved my life. Maybe as we come to the end of this century and as we are waiting for the dawn of the next, maybe it is as simple as this. Maybe it is as simple as taking hope from life itself. You know life, it anchors itself in the bedrock, it sends forth its roots into the soil to be nourished by all the life that has gone before. It grows toward the sun always by branching out. Maybe we will get to a healthier, better, and safer place if we just accept life's ultimate teaching. When life is shared, life is given so life can go on. In that way, maybe all of us can learn to live on and with this earth together.